

REFERENCE TITLE: state agencies; employees; organizational rights

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2085

Introduced by
Representatives Farley, Chabin

AN ACT

AMENDING SECTION 23-1412, ARIZONA REVISED STATUTES; RELATING TO ORGANIZATIONAL RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 23-1412, Arizona Revised Statutes, is amended to
3 read:

4 23-1412. State agencies; employee organizations; terms and
5 conditions of employment; definitions

6 A. ~~The department of public safety~~ EACH INDIVIDUAL AGENCY is
7 recognized as the sole and exclusive authority pursuant to law with respect
8 to determining the level of and the manner in which the ~~department of public~~
9 ~~safety~~ AGENCY activities are conducted, managed and administered. It is the
10 exclusive right of the director of the ~~department of public safety~~ AGENCY to
11 establish and maintain ~~departmental~~ AGENCY rules and procedures for the
12 administration of the ~~department of public safety~~ AGENCY.

13 B. ~~Department~~ AGENCY employees or employee organizations shall not
14 engage in a sickout, work slowdown or strike or any other action that will
15 disrupt the delivery of services.

16 C. This section shall not be construed to:

17 1. Affect or limit the existing right of the ~~department of public~~
18 ~~safety~~ AGENCY to:

19 (a) Direct the work of ~~department~~ AGENCY employees.
20 (b) Hire, promote, demote, transfer, assign and retrain ~~department~~
21 AGENCY employees.
22 (c) Suspend, discharge or discipline ~~department~~ AGENCY employees.
23 (d) Maintain the efficiency of governmental operations.
24 (e) Relieve ~~department~~ AGENCY employees from job responsibilities due
25 to lack of work or other legitimate reasons.

26 2. Invalidate or limit other rights, remedies or procedures of this
27 state relating to any issue of employment of ~~department~~ AGENCY employees.

28 D. The ~~department of public safety~~ AGENCY shall:

29 1. Allow ~~department~~ AGENCY employees the right to form and join
30 employee organizations.

31 2. Recognize an employee organization that is elected by a majority of
32 votes that are cast by ~~department~~ AGENCY employees in a representation
33 election ~~of which a majority of eligible employees participate in that~~
34 ~~election.~~

35 3. Agree to meet and confer with the elected employee organization
36 regarding hours and terms and conditions of employment. The terms and
37 conditions discussed pursuant to this paragraph shall not include wages.

38 4. Commit any agreements regarding working conditions and hours to
39 writing in a ~~contract~~ MEMORANDUM OF UNDERSTANDING THAT SHALL REMAIN IN EFFECT
40 FOR TWO YEARS.

41 E. AN EMPLOYEE GROUP THAT SEEKS TO BE RECOGNIZED AS AN EMPLOYEE
42 ORGANIZATION SHALL EITHER:

43 1. SUBMIT TO THE AGENCY DIRECTOR A PETITION THAT CONTAINS SIGNATURES
44 OF AT LEAST THIRTY PER CENT OF THE AGENCY EMPLOYEES WHO ARE REQUESTING AN
45 ELECTION.

1 2. DEMONSTRATE, BY OTHER MEANS, TO THE AGENCY DIRECTOR THAT THE
2 EMPLOYEE GROUP THAT IS SEEKING RECOGNITION AS AN EMPLOYEE ORGANIZATION HAS
3 MEMBERSHIP OF AT LEAST THIRTY PER CENT OF THE AGENCY EMPLOYEES.

4 F. IN ORDER TO BE RECOGNIZED AS AN EMPLOYEE ORGANIZATION, THE
5 DEPARTMENT OF ADMINISTRATION MUST RECOGNIZE THE EMPLOYEE GROUP AS AN
6 AUTHORIZED GROUP TO RECEIVE PAYROLL DEDUCTIONS OF MEMBERSHIP DUES FROM
7 EMPLOYEES OF THE AGENCY IN WHICH THE EMPLOYEE GROUP IS SEEKING TO BE
8 RECOGNIZED.

9 G. IF A CURRENT AGREEMENT EXISTS BETWEEN THE AGENCY AND AN AUTHORIZED
10 EMPLOYEE ORGANIZATION, ANOTHER EMPLOYEE GROUP FROM THE AGENCY SHALL NOT SEEK
11 TO BE RECOGNIZED UNTIL WITHIN ONE HUNDRED EIGHTY DAYS BEFORE THE CURRENT
12 MEMORANDUM OF UNDERSTANDING EXPIRES.

13 H. THE DEPARTMENT OF ADMINISTRATION SHALL VERIFY THAT AN EMPLOYEE
14 GROUP THAT IS SEEKING TO BE RECOGNIZED AS AN EMPLOYEE ORGANIZATION HAS MET
15 THE REQUIREMENTS OF SUBSECTION E. ONCE VERIFIED, THE DEPARTMENT OF
16 ADMINISTRATION SHALL APPOINT A NEUTRAL THIRD PARTY TO ADMINISTER THE ELECTION
17 PROCESS AND MAY USE FEDERAL MEDIATION AND CONCILIATION SERVICES OR ANOTHER
18 NEUTRAL THIRD PARTY. WITHIN SIXTY DAYS AFTER APPOINTMENT, THE NEUTRAL THIRD
19 PARTY SHALL SET A DATE FOR THE ELECTION TO DETERMINE WHICH, IF ANY, EMPLOYEE
20 GROUP SHALL BE RECOGNIZED AS THE EMPLOYEE ORGANIZATION FOR THE AGENCY. IN
21 ORDER TO ALLOW ELIGIBLE EMPLOYEES TO PARTICIPATE IN THE ELECTION, THE AGENCY
22 SHALL PERMIT ELECTIONS TO BE HELD AT WORK FACILITIES FOR AT LEAST TEN HOURS
23 PER DAY FOR UP TO THREE DAYS. THE NEUTRAL THIRD PARTY SHALL COMMENCE COUNTING
24 BALLOTS IMMEDIATELY AFTER THE CLOSE OF THE POLLS ON THE LAST DAY OF THE
25 ELECTION.

26 E. I. The elected employee organization and ~~department of public~~
27 ~~safety~~ THE AGENCY shall meet and confer on a regular basis, at least once
28 every two years, to discuss hours of employment and other conditions of
29 employment of ~~department~~ AGENCY employees. On the request of the employee
30 organization, the ~~department of public safety~~ AGENCY shall meet and confer
31 with the employee organization in good faith at reasonable times. If the
32 ~~department of public safety~~ AGENCY and the employee organization reach an
33 agreement, the agreement shall be submitted to the governor for consideration
34 pursuant to subsection G-K.

35 F. J. If an agreement is not reached and the possibility of
36 settlement is remote after the parties meet and confer for a reasonable
37 period of time, the ~~department of public safety~~ AGENCY or the employee
38 organization may offer to the other party a written request to begin a
39 mediation process. The mediation process shall be voluntary and nonbinding.
40 The mediation process shall use a neutral third party mediator to assist the
41 parties in reaching a voluntary agreement. During the mediation process,
42 each party shall agree to make a good faith attempt to resolve the issues, to
43 cooperate with the mediator and to be open, candid and complete. The
44 mediator shall only facilitate the meet and confer process and shall not
45 impose any term of the agreement on the parties. If the parties reach an

1 agreement during the mediation process, the agreement shall be submitted to
2 the governor for consideration pursuant to subsection ~~G~~ K. If the mediation
3 process does not resolve all disputed issues between the parties, either
4 party may advise the governor of the issues that remain in dispute.

5 ~~G.~~ K. The governor shall review any agreement or proposed compromise
6 that is reached under this section. The governor may reject, accept or
7 modify any agreement or compromise after considering the interests of the
8 ~~department~~ AGENCY employees and the public interest. Any agreement or
9 compromise is subject to all applicable statutory limitations for the
10 ~~department of public safety~~ AGENCY. The final decision by the governor shall
11 be binding.

12 ~~H.~~ L. The ~~department of public safety~~ AGENCY shall record the
13 proceedings of each meeting with an employee organization.

14 ~~I.~~ M. The ~~department of public safety~~ AGENCY may adopt policies to
15 govern the process established pursuant to this section.

16 ~~J.~~ N. For the purposes of this section: ,

17 1. "AGENCY" MEANS ANY OF THE FOLLOWING, WHICHEVER IS APPLICABLE:
18 (a) THE DEPARTMENT OF PUBLIC SAFETY FOR DEPARTMENT OF PUBLIC SAFETY
19 EMPLOYEES.

20 (b) THE STATE DEPARTMENT OF CORRECTIONS FOR STATE DEPARTMENT OF
21 CORRECTION EMPLOYEES.

22 (c) ANY OTHER STATE AGENCY FOR EMPLOYEES OF THAT STATE AGENCY WHO ARE
23 BELOW THE LEVEL OF SECOND LEVEL SUPERVISOR.

24 2. "Employee organization" means any organization of any kind, or any
25 agency or employee representation committee or plan, in which employees
26 participate and ~~which~~ THAT exists for the purpose, in whole or in part, of
27 dealing with employers concerning grievances, labor disputes, training, hours
28 of employment or other conditions of employment.